

## **REMARKS**

The Applicants respectfully request reconsideration in view of the following remarks and amendments. Claims 1, 3, and 9 are amended. Claim 16 is canceled. Accordingly, claims 1-15 are pending in the application.

### **I. Objections to the Drawings**

The Examiner objected to the drawings for failing to comply with 37 CFR 1.83(a). In particular, the Examiner asserted that the drawings (Fig. 1-3) on record do not show each of the “Internet link” connected to the Internet and how “all of the packets flowing through Internet links” are collected for measurement as recited in claims 1 and 9.

In response, the Applicants amended Fig. 1 to include elements 50 and 60 to illustrate the elements “Internet link” and “all of the packets flowing through Internet links,” as recited in the claims. In light of the amendment, the Applicants respectfully request reconsideration and withdrawal of the objection to the drawings.

### **II. In the Specification**

In light of the above discussed amendment of Fig. 1, the Applicants amend the Specification to reflect the amendment. In particular, page 4, lines 20-24, of the Specification is amended to mention elements 50 and 60 now shown in Fig. 1.

Further, page 8, line 29, through page 9, line 2 of the Specification is amended to remove the phrases related to transmission technologies in light of the Examiner’s § 101 rejection of claim 16 as discussed below.

### **III. Objections to the Claims**

Claim 16 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim recites an improper claim language “traffic analysis of method of claims 9 through 15”, which is unacceptable.

In response, the Applicants cancel claim 16. Therefore, the Examiner’s rejection is moot.

#### **IV. Claims Rejected Under 35 U.S.C. § 112**

Claims 1 and 9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 3-5, the Examiner asserted that in claim 3 the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase as part of the claims invention.

Claims 1 and 9 are amended to recite the elements of the “packets flowing through Internet links *between routers*” (emphasis added) to clarify that the connection to the Internet is provided by the routers. This amendment is supported by page 4, lines 20-22, of the Specification. In addition, claim 1 is amended to change the phrase “all of packets” to state “packets” to clarify the claim language. In light of the amendment, the Applicants respectfully submit that claims 1 and 9 comply with 35 U.S.C. § 112, second paragraph. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1 and 9.

Further, contrary to the Examiner’s assertion (see page 4 of the Office Action), the Specification clearly teaches that the collection of packets is via tapping, port mirroring, or signal distribution. See Specification, page 4, lines 21 and 22. Therefore, the collection of packets can be discerned from the Specification to include these types of methods.

In regard to claims 3-5, claim 3 is amended to replace the phrase “such as” to state “including” to clarify the claim language. In light of the amendment, the Applicants respectfully submit that claim 3 complies with 35 U.S.C. § 112, second paragraph. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 3. Claims 4 and 5 also comply with 35 U.S.C. § 112, second paragraph, because these claims were rejected solely based on their dependencies on claim 3.

#### **V. Claims Rejected Under 35 U.S.C. § 101**

Claim 16 stands rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Claim 16 is canceled and, as a result, the Examiner’s rejection is moot.

In addition, page 8, line 29, through page 9, line 2 of the Specification is amended to remove the phrases related to transmission technologies in anticipation of the Examiner's objection to the Specification.

## **VI. Claims Rejected Under 35 U.S.C. § 102**

Claims 1-15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Veres et al. (U.S. Patent No. 6,807,156) (hereinafter "Veres"). To establish an anticipation rejection the Examiner must show that the cited reference teaches each element of a claim.

Claim 1, as amended, recites the elements of "wherein analyzing the traffic data includes analyzing payload data included in the traffic data." The amendment is supported by, for example, page 4, lines 25-30, of the Specification. Veres, on the other hand, fails to teach the cited elements. Instead, Veres teaches that packet analysis is done *solely on the headers containing the protocol header fields* rather than on the "payload data included in the traffic data," as required by claim 1. See Veres, column 9, lines 30-37. Therefore, Veres fails to teach the elements of "analyzing the traffic data includes analyzing payload data included in the traffic data," as recited in the claim. As a result, for at least these reasons, Veres fails to teach each element of claim 1. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

In regard to independent claim 9, Veres fails to teach the elements of "applications are identified by collecting application headers and application signature that are included in payload of the packets." Again, as discussed above, Veres teaches that packet analysis is done *solely on the headers containing the protocol header fields*, instead of "in payload of the packets," as required by the claim. See Veres, column 9, lines 30-37. As a result, Veres fails to teach the elements of "applications are identified by collecting application headers and application signature that are included in payload of the packets," as recited in the claim. Therefore, in view of the foregoing reasons, Veres fails to teach each element of claim 9. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 9.

In regard to dependent claims 2-8 and 10-15, these claims depend from base claims 1 and 9, respectively, and incorporate the limitations thereof. Therefore, for at least the reasons

discussed in connection with claims 1 and 9, Veres fails to teach each element of claims 2-8 and 10-15. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2-8 and 10-15.

## **CONCLUSION**

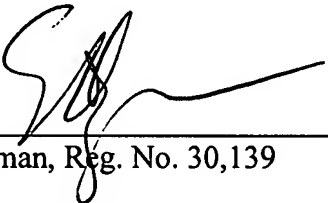
In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 8/22, 2007

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(310) 207-3800

  
Eric S. Hyman, Reg. No. 30,139

### **CERTIFICATE OF MAILING:**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 22, 2007.

  
Melissa Stead

8-22-07  
August 22, 2007

FIG. 1

